

(b) The requirements for a certificate and clause under the Contract Work Hours and Safety Standards Act, 40 U.S.C. 327, *et seq.*, (see Subpart 22.3) are not applicable to subcontracts at any tier for the acquisition of commercial items or commercial components.

(c) The applicability of the following laws have been modified in regards to subcontracts at any tier for the acquisition of commercial items or commercial components:

(1) 41 U.S.C. 253g and 10 U.S.C. 2402, Prohibition on Limiting Subcontractor Direct Sales to the United States (see subpart 3.5).

(2) 41 U.S.C. 254(d) and 10 U.S.C. 2306a, Truth in Negotiations Act (see subpart 15.4).

(3) 41 U.S.C. 422, Cost Accounting Standards (48 CFR chapter 99) (see 12.214).

[60 FR 48241, Sept. 18, 1996 as amended at 61 FR 67418, Dec. 20, 1996; 62 FR 232, 236, Jan. 2, 1997; 62 FR 51270, Sept. 30, 1997; 64 FR 72416, 72418, Dec. 27, 1999; 65 FR 46069, July 26, 2000; 68 FR 13203, Mar. 18, 2003]

Subpart 12.6—Streamlined Procedures for Evaluation and Solicitation for Commercial Items

12.601 General.

This subpart provides optional procedures for—

(a) Streamlined evaluation of offers for commercial items; and

(b) Streamlined solicitation of offers for commercial items for use where appropriate.

These procedures are intended to simplify the process of preparing and issuing solicitations, and evaluating offers for commercial items consistent with customary commercial practices.

12.602 Streamlined evaluation of offers.

(a) When evaluation factors are used, the contracting officer may insert a provision substantially the same as the provision at 52.212-2, Evaluation—Commercial Items, in solicitations for commercial items or comply with the procedures in 13.106 if the acquisition is being made using simplified acquisition procedures. When the provision at 52.212-2 is used, paragraph (a) of the

provision shall be tailored to the specific acquisition to describe the evaluation factors and relative importance of those factors. However, when using the simplified acquisition procedures in part 13, contracting officers are not required to describe the relative importance of evaluation factors.

(b) Offers shall be evaluated in accordance with the criteria contained in the solicitation. For many commercial items, the criteria need not be more detailed than technical (capability of the item offered to meet the agency need), price and past performance. Technical capability may be evaluated by how well the proposed products meet the Government requirement instead of predetermined subfactors. Solicitations for commercial items do not have to contain subfactors for technical capability when the solicitation adequately describes the item's intended use. A technical evaluation would normally include examination of such things as product literature, product samples (if requested), technical features and warranty provisions. Past performance shall be evaluated in accordance with the procedures in section 13.106 or subpart 15.3, as applicable. The contracting officer shall ensure the instructions provided in the provision at 52.212-1, Instructions to Offerors—Commercial Items, and the evaluation criteria provided in the provision at 52.212-2, Evaluation—Commercial Items, are in agreement.

(c) Select the offer that is most advantageous to the Government based on the factors contained in the solicitation. Fully document the rationale for selection of the successful offeror including discussion of any tradeoffs considered.

[60 FR 48241, Sept. 18, 1995, as amended at 61 FR 39192, July 26, 1996; 62 FR 264, Jan. 2, 1997; 62 FR 51270, Sept. 30, 1997; 62 FR 64917, Dec. 9, 1997]

12.603 Streamlined solicitation for commercial items.

(a) When a written solicitation will be issued, the contracting officer may use the following procedure to reduce the time required to solicit and award contracts for the acquisition of commercial items. This procedure combines the synopsis required by 5.203 and